

REMARKS

In the Official Action of April 19, 2006, claims 3, 4, 6, 8, 24 and 25 have been rejected under 35 U.S.C. 102(b) as being anticipated by Johnson, GB 2292067 ("GB '067"). This ground of rejection is respectfully traversed.

In view of the Examiner's comments regarding the definition of the term "unitary", the claims have now been amended in order to more clearly define the intended invention. In particular, the tab chassis component has been reinserted and defined as a single structure encompassing the entire length of the tab. In addition, the tab chassis comprises a single sheet of elastic material to which both dead zones (inelastic) and gripping zones are attached. The single piece of elastic material defines the perimeter of the tab chassis, and the gripping zone is located within this perimeter. Antecedent support for this amendment is found of pages 18 and 19 of the present specification, and in Figure 3.

In order for a claim to be anticipated by a reference, that reference must disclose each and every element of the claimed invention. See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987) ("A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."); see also *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989) ("The identical invention must be shown in as complete detail as is contained in the . . . claim.").

The Examiner states that GB '067 discloses a garment **20** having waist regions **40** and **38**, chassis **22**, and core **26**. The Examiner further states that tab **89** is a "unitary" structure directly attached to waist region **20**. However, the Examiner also acknowledges that the tab is a composite structure comprising at least side panel **90** and tab **44**.

It is clear from FIGS. 2 and 3 of the reference, and pages 24 and 25 of the text, that these individual pieces are joined together by a stress beam **98** using a bonding agent such as an adhesive. Thus, unlike the tab chassis of the present invention, the tab of the reference actually comprises several distinct and separate elements fastened together. Moreover, the gripping region of the tab depicted in the reference is not located within the perimeter of the tab chassis as presently claimed by applicant.

In addition to the foregoing, the GB '067 reference clearly shows that the tab is secured to the garment at the rear waistband 40 along the top surface of the rear waistband. In contrast, the tab of the present invention is sandwiched between and attached to the top sheet 2 and back sheet 3. See Figure 3 of the present invention.

Accordingly, in view of the foregoing remarks and clarify amendments, applicant respectfully submits that the present claims are not anticipated by the GB '067 reference.

Claims 3, 4, 6, 8 and 24-25 have also been rejected under the judicially created doctrine of obviousness-type double patenting in view of claims 25-52 of U.S. Patent No. 6,740,071 in view of GB '067, and claims 26-54 of U.S. Patent No. 6,692,477 also in view of GB '067. These grounds of rejection are respectfully traversed.

An obviousness-type double patenting rejection can be obviated by the submission of a terminal disclaimer, and applicant would be prepared to submit such a disclaimer if the claims are otherwise indicated to be in condition for allowance.

In view of the aforementioned facts and reasons, the present application is now believed to overcome the remaining rejection in this application, and to be in proper condition for allowance. Reconsideration and withdrawal of the rejections is therefore respectfully solicited. Entry of the foregoing amendment is appropriate at this time since it serves to advance the prosecution of the application without creating any new issues thereby. The Examiner is invited to contact the undersigned at the telephone number listed below to discuss any matter pertaining to the status of this application.

Date: 10 / 18 / 06

By: William G. Gosz  
William G. Gosz  
Reg. No. 27,787

**Customer No. 56679**  
Gosz and Partners LLP  
450 Bedford Street  
Lexington, MA 02420  
(781) 863-1116